

REMARKS

Reconsideration of the present application, as amended, is respectfully requested.

A. Amendment to the Specification

Applicants have uncovered and corrected a typographical error in the specification.

B. THE REJECTIONS UNDER 35 U.S.C. §112, Second Paragraph

Applicants respectfully urge that as a result of the present amendments to the claims, the claims are in proper form in all respects. The Examiner's comments concerning claims 1 and 32 are believed to be directed to claims 1 and 31. Each instance of the phrase "each of which can be substituted or unsubstituted" has been deleted from the claims in order to obviate the rejection.

Amendments have also been made to further clarify the other variable definitions objected to by the Examiner. The amendments offered herein are being made in an effort to expedite the prosecution of this application rather than as an admission that the terms are indefinite as understood by one of ordinary skill. Support for the amendment to claim 1 concerning the variable "L" can be found, for example, in the Specification on page 10, lines 28-32. Support for the amendment to claim 1 concerning the variable "B" can be found, for example in the Specification beginning on page 14, line 29- continuing through page 16, line 3.

A typographical error in claim 5 has been corrected and claim 24 has been cancelled as it is duplicative of claim 5.

The formula objected to in claim 22 has been deleted.

Support for the amendment to claim 31 can be found, for example, on page 10, lines 21-32 of the specification.

Support for new claim 32 can be found in the specification, see in particular claim 1 in the application as filed and page 14, lines 24-27, for example.

Support for new claims 33-34 can be found ,for example, in the specification, on page 14, line 14.

Support for new claim 35 can be found in the specification, see page 10, lines 21-26, for example. Finally, Support for new claim 36 can be found on page 10, line 24.

It is respectfully urged that all of the claims are in proper form and that the rejections can be withdrawn.

C. THE REJECTIONS UNDER 35 U.S.C. §102(b)

The Examiner has rejected the subject matter of claims 1-2, 10, 25 and 31 as being anticipated by each of U.S. Patent No. 5,218,137 and Porter et al. (J. Am. Chem. Soc. 1993, 115, pp 9371-9379). The Examiner has pointed to the compounds at column 5, lines 66-68 and column 14, lines 49-50 of the '137 patent and also the compounds on page 9372, left column, line 23 of Porter et al. as the basis of the rejections. Reconsideration and removal of the rejections is respectfully requested. A rejection under 35 U.S.C. §102(b) requires that all of the elements of the rejected claims be found within the cited references. It is respectfully urged that the rejected claims are not anticipated by the cited references. The '137 patent is discussed in the background of the invention section of the application, see page 1. The paper referred to by the Examiner contains substantially the same relevant disclosure. Similar references were cited during the PCT international examination of the applications corresponding to this application. In each case, there was no indication that the references anticipate the claimed subject matter. Indeed for there to be anticipation by the Porter et al. references, the claims would have to allow the NR_7R_8 portion of the claimed compound to be a diethylamino. Applicants respectfully direct the Examiner's attention to the fact that the claims as filed and as currently submitted herewith prevent such an event from occurring since such compounds are not part of the claimed invention. While R_7 can be H, R_8 cannot be H. Instead, it is a member of a group which consists of $(\text{CR}_9\text{R}_{10})_n\text{-NR}_{22}\text{-R}_{11}$, $(\text{CR}_9\text{R}_{10})_n\text{-CH}_2\text{-NHC(O)R}_{26}$ and $(\text{CR}_9\text{R}_{10})_n\text{-CH}_2\text{-E}$, as such variables are defined in the claims. It can therefore be plainly seen that the references do not anticipate the claimed subject matter. The Examiner is therefore respectfully requested to reconsider and withdraw the rejection. Such action is earnestly solicited.

D. PROVISIONAL REQUEST FOR EXTENSION OF TIME

This response is being filed within the shortened statutory period for response. No further fees are believed to be required. If, on the other hand, it is determined that any further fees are due or any overpayment has been made, the Commissioner is hereby authorized to debit or credit such sum to deposit account number 02-2275.

Pursuant to 37 C.F.R. 1.136(a)(3), please treat this and any concurrent or future reply in this application that requires a petition for an extension of time for its timely submission as incorporating a petition for extension of time for the appropriate length of time. The fee associated therewith is to be charged to Deposit Account No. 02-2275.

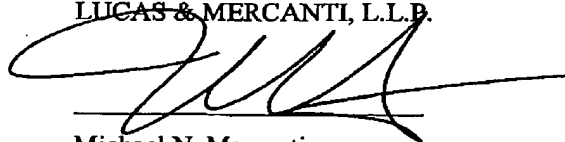
E. CONCLUSION

In view of the actions taken and arguments presented, it is respectfully submitted that the present application is now in condition for allowance.

An early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

LUCAS & MERCANTI, L.L.P.

A handwritten signature in black ink, appearing to be 'M. Mercanti', written over a horizontal line.

Michael N. Mercanti

LUCAS & MERCANTI, L.L.P.
475 Park Avenue South
New York, New York 10016
Phone: 212-661-8000
Fax: 212-661-8002